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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,334	12/11/2001	Daniel Sobolewski	1418-96	1508

7590

06/03/2004

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EXAMINER

DAVIS, ROBERT B

ART UNIT

PAPER NUMBER

1722

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/014,334

Applicant(s)

SOBOLEWSKI, DANIEL

Examiner

Robert B. Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 1-3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4 is/are rejected.
- 7) ☒ Claim(s) 5-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group II, claims 4-17, in Paper No. 2004/04/22 is acknowledged.
2. Claims 1-3 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 2004/04/22.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Debenedetti (EP application 818297A1: figures 1-5).

Debenedetti teaches a device to form a bung comprising an enclosure (molding surfaces 20, 22) which forms a molded piece (74) featuring a protrusion (50) to define the bung, relative driving means (88) of said piece (74) in relation to said enclosure (20, 22) capable of permitting release of the piece (74) from the enclosure (see figure 5) and cutting means (64) to unplug a previously closed end (78) of a conduit (74a) operated by said driving means (88). None of the features of claim 4 have been treated under 35 USC 112 6th paragraph as means-plus-function limitations. Relative cutting and release of the molded article can be seen in figures 4 and 5, respectively.

Allowable Subject Matter

5. Claims 5-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record teach or suggest the apparatus of claim 4 further comprising: means to operate said driving means in rotation around a so-called pivot axis, designed to correspond to the longitudinal axis of the protrusion whenever the piece is in place inside said enclosure, first means to transform the rotation of the driving means into a separation movement, about the pivot axis, of the piece and the enclosure, and second means to transform the rotation of the driving means into a penetration movement, about the pivot axis, of the cutting means into the previously closed end, with the second means capable of causing a penetration movement faster than the separation movement caused by the first means. Debenedetti discloses a separation and cutting mechanism for a molding apparatus, but fails to disclose or suggest means to operate the driving means in rotation around a pivot axis with first means to transform the rotation into a separation movement and second means to transform the rotation into a penetration movement wherein the penetration movement is faster than the separation movement caused by the first means.

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Priority

7. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in France on 12/11/2000. It is noted, however, that applicant has not filed a certified copy of the French application as required by 35 U.S.C. 119(b).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining references show the state of the art in forming molded articles and then removing an unwanted region of the article by cutting.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Davis whose telephone number is 571-272-1129. The examiner can normally be reached on Monday-Friday 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).



Robert B. Davis
Primary Examiner
Art Unit 1722

5/27/04